IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 19535 of 2000

Between:

Devadass Wines, Mangaripeta, Rep.by its Proprietor Sri.Marupalli Suri Babu Bhimili Mandal, Visakhapatnam.

..... PETITIONER

AND

1.The Prohibition & Excise Superintendent,
Visakhapatnam.

2.The Commissioner of Prohibition & Excise,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings in Rc.No.1003/2000/D1, dt.13/6/2000 of the Prohibition and Excise Superintendent, Visakhapatnam, as arbitrary and illegal and consequently direct the respondents to refund an amount or Rs.85,000 to the petitioner forthwith.

Counsel for the Petitioner: MR.M.DHANANJAY REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER:

Heard the learned counsel for petitioner and also the learned Government

Pleader appearing on behalf of the respondents.

2. The petitioner herein, a licensee who was granted licence under the A.P. Excise Act for the period 31-03-2000 which was extended upto 10-04-2000, filed this Writ Petition *inter alia* challenging the orders impugned dated 13-06-2000 rejecting his request for refund of licence fee.

3. The main grievance of the petitioner is that having regard to the fact that the petitioner did not, in fact, seek any renewal; therefore, the amounts deposited by him in the interregnum needs to be refunded. Though a request has been made, the same was rejected and the impugned order was passed.

4. On considering the submissions made and also reading the impugned order, it does not disclose any reasons in support of the rejection order, nor it also refers to the factum of the petitioner not seeking any renewal. Further, it also does not disclose as to whether any opportunity was given to the petitioner. In the circumstances, it would meet the ends of justice if a fresh opportunity is given to the petitioner and fresh orders are passed, after taking into consideration the submissions made by the petitioner, especially in regard to the failure to seek the renewal.

4. The Writ Petition is accordingly allowed and the impugned orders are set aside. Respondent No.1 is directed to re-consider the matter afresh on merits and dispose of the same in accordance with law after giving opportunity to the petitioner. The respondent shall pass order, in any event, within a period of two months from the date of receipt of a copy of this order.

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(B. PRAKASH RAO, J)

August 4, 2004

Bsb/Mrr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday the 04th day of August two thousand and four.

ASSISTANT REGISTRAR

To

1.The Prohibition & Excise Superintendent,
Visakhapatnam.

2.The Commissioner of Prohibition & Excise,
Hyderabad.

3. Two CCs to the Government Pleader for Prohibition and Excise, High Court Buildings, Hyderabad (OUT).

4. Twp CD copies.